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# Before the Federal Communications Commission Washington, DC 20554

JUN 4 1996

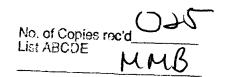
In the Matter of	)	Federal Communications Commission Office of Secretary
Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations.	) R ) )	М—
(Carlisle, Irvine and Morehead, Kentucky)	) )	DOCKET FILE COPY ORIGINAL

To: Mass Media Bureau (Policy & Rules)

## Petition for Rule Making

James P. Gray, licensee of FM station WCAK Carlisle, Kentucky ("WCAK"), Kentucky River Broadcasting Company, licensee of FM station WCYO Irvine, Kentucky ("WCYO"); and, WMOR, Inc., licensee of FM station WMOR Morehead, Kentucky ("WMOR") by their attorney, and pursuant to Section 1.420(g) of the rules respectfully petition for rule making so as to 1) substitute Channel 221C3 in place of Channel 264A at Carlisle, Kentucky; 2) substitute Channel 291C3 in place of Channel 221A at Morehead, Kentucky; and 3) substitute Channel 264C3 in place of Channel 291A at Irvine, Kentucky. In support thereof, the following is shown.

WCAK, WCYO and WMOR, are Class A stations limited in their power and coverage. An upgrade to Class C3 will permit all stations to serve a substantially larger area and more listeners. Individually, they are prohibited from increasing facilities on their own or adjacent channels due to spacing restrictions



presented by each other.<sup>1</sup> As demonstrated by the executed agreement attached hereto as Exhibit 1, the parties have mutually agreed to pursue these requested modifications. According to the attached Engineering Statement, the proposed reference coordinates for WCAK are North Latitude 38° 17′ 42"; West Longitude 83° 52′ 32". The proposed reference coordinates for WMOR are North Latitude 38° 11′ 17"; West Longitude 83° 28′ 37". The proposed reference coordinates for WCYO are North Latitude 37° 43′ 27"; West Longitude 84° 02′ 38". From these coordinates each channel may be allotted as requested consistent with all spacing requirements and good engineering practice. The public interest will be served by adoption of the rule making proposed herein.

This proposal requests upgrades on nonadjacent channels which would normally allow for competing expressions of interest. However, in situations similar to the one presented herein, the Commission has acknowledged that while not strictly adjacent channel relationships, the mutual exclusivity of the channels involved is similar to the scenario provided for in Section 1.420(g) of the rules which protects a station from competing applications for upgrades to non-mutually exclusive channels. The Commission has stated that it will look at each such request on a case-by-case basis. Modification of FM Broadcast Licenses to Higher Class Co-channels of Adjacent Channels, 60 RR2d 114, 120

These proposals are consistent with Commission's Report and Order in Milton, West Virginia and Flemingsburg, Kentucky, DA 96-800, (Allocations Branch, released June 4, 1996) modifying the license of station WFLE-FM Flemingsburg, Kentucky, to specify operation on Channel 236A.

(1986). The present proposal is in the public interest and will result in a preferential arrangement of allotments by allowing three stations to expand their coverage areas and provide an improved broadcast service to a greater number of people. But for this rule making, the parties could not otherwise achieve the requested upgrades to improve their service to the public.

WCAK, WMOR and WCYO will promptly prepare and filed construction permit applications for the improved facilities upon favorable Commission action on this petition, and will promptly construct the new facilities upon grant of the applications.

In view of the above, the Commission should amend Section 73.202(b) as requested herein and modify the facilities for each station as follows:

	Present	Proposed
Carlisle, KY Morehead, KY	264A 221A, 242A	221C3 242A, 291C3
Irvine, KY	291A	264C3

Respectfully Submitted,

JAMES P. GRAY

KENTUCKY RIVER BROADCASTING COMPANY

WMOR, INC.

John S. Neely Its Attorney

June 4, 1996

Miller & Miller, P.C. P.O. Box 33003 Washington, DC 20033

### **AGREEMENT**

This is an agreement between Kentucky River Broadcasting, Company, Inc.("WCYO") owner of WCYO, Irvine, Ky. and James P. Gray ("WCAK") owner of WCAK, Carlisle, Ky. and WMOR, Inc. ("WMOR") owner of WMOR, Morehead, Ky. to increase their respective radio facilities from FCC Class A facilities to FCC Class C3 facilities by requesting a swap of channels through the FCC rulemaking process.

WCYO, WCAK and WMOR (the "parties") hereby agree to the following:

- (a.) To file a joint petition requesting: WCYO change from Channel 291A to Channel 264C3, and WCAK change from Channel 264A to Channel 221C3, and WMOR change from Channel 221A to Channel 291C3.
- (b.) The Channel changes listed above are only made possible if WFLE, Flemingsburg, Ky. changes from Channel 292A to another channel and that the joint petition will be filed on or before October 19, 1995 in FCC Docket MM 95-137, the FCC proceeding in which Simmons Broadcasting Company has requested WFLE be changed from Channel 292A to Channel 236A.
- (c.) That the parties agree to equally share the legal and engineering expenses involved in petitioning the FCC to accomplish upgrades for each of the parties facilities. Should the FCC order the requested channel changes then each party will be responsible for their own FCC filing fees and other costs for their respective applications.
- The parties shall cooperate fully with each other to obtain grants of their respective applications and shall promptly provide the FCC with any additional information requested.
- (e.) This agreement shall be binding on both parties, their successors and assigns. Each party recognizes that the other will be acting in reliance with the commitments made herein, and that any party which breaches this apreement will be liable for damages, including reasonable attorney's fees, or specific performance.

The undersigned hereby agree to the foregoing.

Kentucky River Broadcesting Company, Inc. 1030 Winchester Road Box 281

Irvine, Ky. 40336

WCAK

James P. Grav 10 Trinity Place

Fort Thomas, Ky. 41075

By:

WMOR, Inc. c/o WMOR

113 East First Street Morehead, Kv. 40351

#### ENGINEERING STATEMENT

This technical statement and data support the joint proposal by Kentucky River Broadcasting Company ("WCYO"), licensee of WCYO, Channel 291A, Irvine, Kentucky, and WMOR, Inc. ("WMOR"), licensee of WMOR, Channel 221A, Morehead, Kentucky, and James P. Gray ("WCAK"), licensee of WCAK (formerly WWLW), Channel 264A, Carlisle, Kentucky. All three petitioners request congruous channel changes which result in upgrades for each of their stations from Class A to Class C3 facilities. These changes are made possible by recently ordered substitution of Channel 236A for Channel 292A at Flemingsburg, Ky in MM Docket 95-137. The proposed upgrades and channel changes meet the Commission's minimum distance separation and city grade service requirements, and will eliminate existing short spacings. Also the changes result in significant increases in population and area served by WMOR, WCAK, and WCYO.

The proposed changes are as follows:

Community	Current Proposed Channel Channel		At Reference			
WMOR, Morehead, Ky.	221A 3.0 kw	291C3 25 kw	38 11' 17" 83 28' 37"			
		2-2				
WCAK, Carlisle, Ky.	264A 6.0 kw	221C3 25 kw	38 17' 42" 83 52' 32"			
WCYO, Irvine, Ky.	291A	264C3	37 43' 27"			
•	6.0 kw	25.0 kw	84 02' 38"			

These proposals meet the minimum mileage separation requirements of Section 73.207 of the Rules as demonstrated by the FM spacing studies included here. The reference coordinates meet the requirements of Sections 73.315 regarding city grade service to their respective communities and the map shows the respective 70 dBu contours using each proposed channel, at the proposed reference site, with a HAAT of 100 meters.

Existing short spacing will be eliminated by the proposed changes. WCYO's licensed site is short spaced 4.75 kilometers to WVRB, Channel 290A, Wilmore, Ky. and WCAK's licensed site is short spaced 1.55 kilometers to WWYC, Channel 261C2, Winchester, Ky. These short spacings and the associated interference will be eliminated by the proposed changes.

The proposed changes result in significant increases in population and area served by the three facilities as shown in the following table:

Station	6	0 dBu Area Ser	ved		Population	
	Current	Proposed	increase	Current	Proposed	Increase
WCAK Carlisle, Ky.	2501 Km	4743.5 Km	89.6%	35,821	89,324	149%
WCYO Irvine, Ky.	2508.3 Km	4727.1 Km	88.4%	53,670	148,632	177%
WMOR Morehead, Ky	1794.5 Km	4722.5 Km	163%	32,406	83,419	157%

The results of the proposed changes are: WMOR, WCAK, and WCYO will upgrade from Class A to Class C3 facilities. The public interest is served by these changes in that these stations will realize significant increases in population and area served, while eliminating interference to stations WVRB and WWYC.

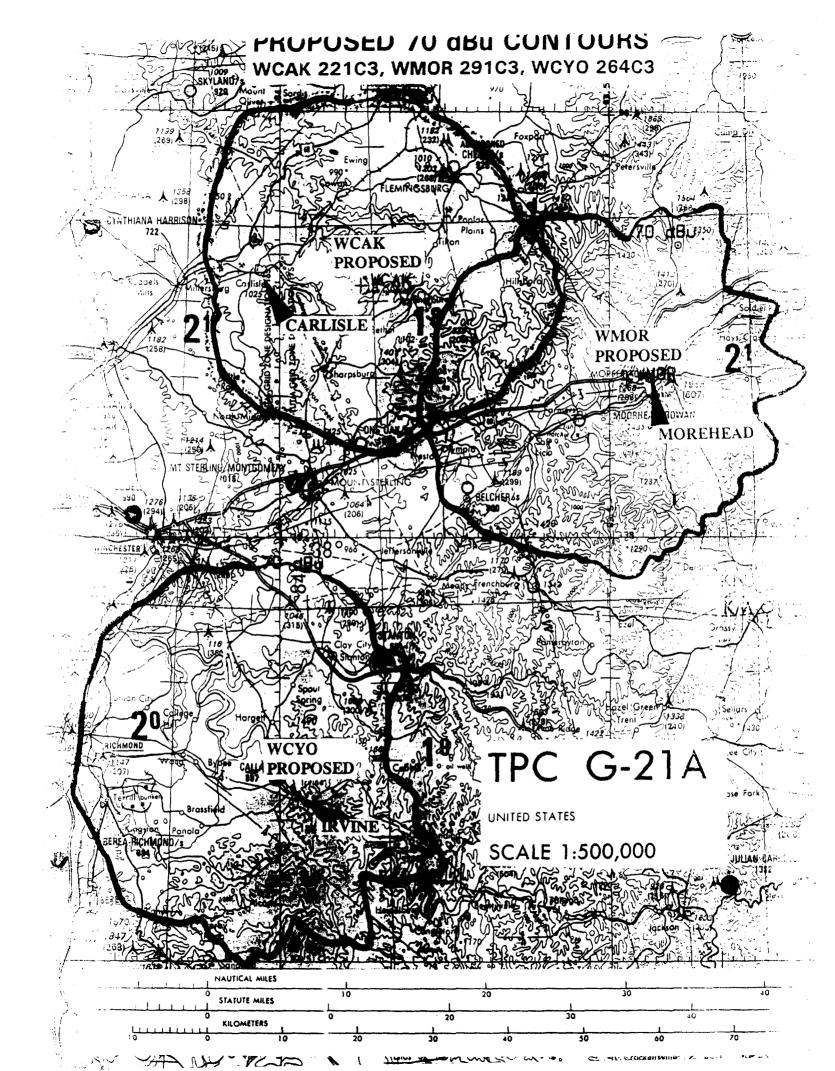
I, hereby certify the following is true and correct.

Prepared by

James P. Gray

10 Trinity Place

Fort Thomas, Ky. 41075 606-781-5715 phone/fax June 4, 1996



Latitude: 38-11-17 Longitude: 83-28-37

Safety zone: 45 km

81-40-04 239.6 41.51 CLEAR

#### FM Spacing study

Proposed Channel for WMOR Channel 291C3 (106.1 MHz) Database: FCC 04/11/96

Ravenswood

Auth Licensee name Chan ERP-kW Latitude Br-to Dist. Req. St FCC File no. Freq EAH-m Longitude -from (km) (km) City of License ALLOC 38-38-23 288.9 159.6 237A Carrollton KY DOC~88-31 95.3 85-12-44 107.8 147.6 CLEAR ALLOC 238C 37-41-44 131.9 81.78 31 82-47-06 312.3 50.78 CLEAR 95.5 Prestonsburg KY WMST-FM LIC Mt Sterling Broadcasting 288A 3 38-05-36 255.7 42.29 42 83-56-39 75.4 .286 CLOSE Mount Sterling KY BLH-4059 105.5 91 38-05-36 255.7 42.29 ALLOC 288A Mount Sterling KY 105.5 83-56-39 75.4 .286 CLOSE WXKZ-FM LIC Ed Walters Broadcasting, 288A 1.70 37-39-24 133.2 85.94 42 105.5 119 82-45-58 313.7 43.94 CLEAR Prestonsburg XY BLH-3586 ALLOC 28BA 37-39-24 133.2 85.94 42 Prestonsburg 105.5 82-45-58 313.7 43.94 CLEAR KY WLGC-FM LIC Greenup County Broadcast 289C3 11.5 38-35-44 49.9 70.66 43 KY BLH-920420KC 105.7 146 82-51-20 230,3 27.66 CLEAR Greenup 38-37-24 49.2 74.46 ALLOC 289C3 43 KY DOC-86-29 82-49-42 229.6 31.46 CLEAR 105.7 Greenup ALLOC 290A 37-48-10 248.2 113.9 84-40-43 67.5 24.89 CLEAR Wilmore KY DOC-88-31 105.9 37-45-46 246.7 117.7 WVRB LIC Vernon R. Baldwin 290A 6 89 Wilmore KY BLH-950912KZ 105.9 100 84-42-16 65.9 28.73 CLEAR 39-30-57 333.1 165.8 WPBF-FM LIC Radio Stations WPAY/WPFB 290B 34 145 Middletown OH BLH-5985 105.9 180 84-21-05 152.6 20.80 CLEAR ALLOC 290B 39-30-57 333.1 165.8 145 84-21-05 152.6 20.80 CLEAR Middletown OH 105.9 WCYO LIC Kentucky River Broadcast 291A 1.20 37-43-38 218.7 65.51 142 Irvine KY BLH-950407KB 106.1 221 83-56-34 38.4 -76.5 SHORT ALLOC 37-41-42 218.1 69.54 142 291A KY DOC-84-231 106.1 83-57-54 37.8 -72.5 SHORT Irvine Filing window 02/12-03/24/88 \*\*CLOSED\*\* 39-02-07 58.5 183.5 以包含艺 LIC Mediacom, Inc. 291A 1.85

WV BMLH-910412KD 106.1 184

 Channel for WMOR
 Latitude: 38-11-17

 Channel 291C3 (106.1 MHz)
 Longitude: 83-28-37

Call Auth Licensee name City of License St FCC	File no. Freq		_			Req.
WINN LIC Southeast Indian				297.5	217.0	211
North Vernon IN BLH-			85-42-10			CLOSE
ALLOC	291B		39-04-02	297.5	217.0	211
North Vernon IN	106.1		85-42-10	116.1	6.012	CLOSE
PRM DEL Simmons Broadcas	sting Com 292A		38-24-42	340.5	26.35	89
Flemingsburg KY DOC-	-95-137 106.3		83-34-41	160.4	-62.6	SHORT
WFLE-FM LIC Fleming County F	Broadcast 292A	1.20	38-24-42	340.5	26.35	89
Flemingsburg KY BLH-		161	83-34-41			
ALLOC	292A		38-27-10	240 2	71 75	89
Flemingsburg KY DOC-						
Filing window 02/06-03/13/91			05-55-55	100.1	37.7	BHONI
ALLOC	292A		38-02-44	261.6	104.8	89
Versailles KY	106.3		84-39-29			
		_				
WCGW LIC Mortenson Broadd Versailles KY BLH-	casting C 292A -820909AJ 106.3		38-02-44 84-39-29			CLOSE
VOI SELLIES RI BEN	-020909A0 100.3	31	04-33-23	60.9	13.70	CDCSS
PRM ADD Simmons Broadcas	sting Com 292B1		38-29-02			114
Milton WV DOC-	-95-137 106.3		82~12~59	253.7	1.001	CLOSE
PRM DEL Simmons Broadcas	sting Com 292A		38-30-21	71.9	116.3	89
Milton WV DOC-	<del></del>		82-12-33			
W22W-FM LIC Simmons Broadcas Milton WV BML	•			_		89
MIITON WV BALL	H-900205KC 106.3	333	82-12-33	252.7	21.31	CLEAR
ALLOC	292A		38-30-21	71.9	116.3	89
Milton WV	106.3		82-12-33	252.7	27.31	CLEAR
ALLOC	293A		37-32-46	174.2	71.61	42
Jackson KY DOC-						
WJSN-FM LIC Intermountain Br						42
Jackson KY BLH-	-930818KA 106.5	185	83-23-42	354.3	29.61	CLEAR
WKXO-FM LIC Berea Broadcasti	ing Co., 294A	1.95	37-30-15	220.7	99.97	42
	- ·	178				CLEAR
ALLOC	2948		39-09-58	354 1	109.2	71
Hillsboro OH	106.7		83-36-25			
			<del></del>		· · · · <del>· ·</del> ·	
WSRW-FH LIC The Highland Bro			39-09-58			71
Hillsboro OH BLH-	-850911KA 106.7	75	83-36-25	174.0	38.16	CLEAR

45 km

Latitude: 38-17-42

Safety zone:

Longitude: 83-52-32

#### FM Spacing study

Proposed Channel for WCAK Channel 221C3 ( 92.1 MHz) Database: FCC 04/11/96

Auth Licensee name Chan ERP-kW Latitude Br-to Dist, Req. City of License St FCC File no. Freq EAH-m Longitude -from (km) (km) WOSP LIC The Ohio State Universit \*218A . 11 38-45-42 53.5 87.89 Portsmouth OH 91.5 368 83-03-41 234.0 45.89 CLEAR UXVW Xavier University \*219B 26 39-07-31 329.8 106.9 71 Cincinnati OH 91.7 208 84-29-57 149.4 35.94 CLEAR WMEJ LIC Maranatha Broadcasting, 38-27-14 81.6 128.6 89 \*220A 3 82-25-05 262.5 39.58 CLEAR Proctorville OH 91.9 91 LIC Louisville Free Public L \*220C1 100 38-14-40 268.6 164.8 Louisville KY 91.9 72 85-45-27 87.5 20.79 CLEAR PRM ADD Morehead Broadcasting Co 221A 38-11-16 143.9 14.75 Owingsville 83-46-34 324.0 -127 SHORT ΚY 92.1 ALLOC 38-10-53 108.6 39.45 221A 142 Morehead KY 92.1 83-26-55 288.8 -103 SHORT WMOR-FM LIC Dream Enterprises Inc. 221A 3 38-10-53 108.6 39.45 Morehead KY BLH-790702AC 83-26-55 288.8 -103 SHORT 92.1 91 WSCC LIC Somerset Community Colle \*221D .013 37-03-34 205.6 151.9 KY BLED-840202AA 92.1 Somerset 12 84-36-56 25.1 ALLOC 221A 39-42-46 348.9 160.5 142 West Carrollton OH DOC-85-157 84-14-13 168.7 18.48 CLEAR 92.1 Filing window 05/08-06/06/86 \*\*CLOSED\*\* WROU LIC Hawes-Saunders Broadcast 39-43-15 348.3 161.8 221A .89 142 West Carrollton OH BLH-911204KB 92.1 182 84-15-39 168.0 19.77 CLEAR ALLOC 37-12-43 131.6 179.7 221A 142 Clincheo 82-21-37 312.6 37.67 CLEAR VA 92.1 ALLOC 221A 39-03-30 61.4 180.7 142 Middleport OH 82-02-31 242.5 38.67 CLEAR 92.1 WMPO-FM LIC E.T. Broadcasting, Inc. 221A 3.40 39-03-30 61.4 180.7 142 Middleport OH BMLH-920922KA 92.1 111 82-02-31 242.5 38.67 CLEAR WDIC-FM LIC Dickenson County Broadca 221A 2.50 37-08-42 133.9 182.9 142 Clincheo VA BLH-920212KE 92.1 154 82-23-22 314.8 40.92 CLEAR LIC Louisa Communications, I WSAC 222A 4.50 38-10-33 96.5 110.1 Louisa KY BLH-910530KA 82-37-39 277.3 21.07 CLEAR 92.3 115

# FM Spacing study

Proposed Channel for WCAK

Channel 221C3 (92.1 MHz)

Latitude: 38-17-42

Longitude: 83-52-32

Call Auth Licensee City of License	St FCC File no.					
ALLOC Louisa Filing window 03/11-04	KY DOC-84-231	92.3		38-06-48 82-36-12	99.9 280.7	113.2 89 24.24 CLEAR
WYGE CP Ethel Huf London	f KY BMPH-9308021E	222C2 92.3	23 220	37-09-01 83-59-32	184.6 4.6	127.5 117 10.47 CLOSE
ALLOC London	KY DOC-92-23	222C2 92.3		37-09-12 84-06-56	189.5 9.4	128.5 117 11.47 CLOSE
WZQQ LIC Leslie Co Hyden	ounty Broadcasti KY BLH-881121KB	222A 92.3	2.40 111	37-10-14 83-22-49	160.6 340.9	132.2 89 43.22 CLEAR
ALLOC Cincinnati	Off					108.8 71 37.84 CLEAR
WOFX LIC Jacor Bro Cincinnati						
WRVC-FM LIC KenMar, I Catlettsburg	KY BLH-950810KB					113.3 42 71.28 CLEAR
ALLOC Cincinnati	ОН					106.9 17 89.94 CLEAR
WLKS-FM CP Morgan Co West Liberty						

>> End of channel 221C3 study <<

## FM Spacing study

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Propose Channel for WCYO

Channel 264C3 (100.7 MHz)

Database: FCC 04/11/96

Latitude: 37-43-27

Longitude: 84-02-38

Safety zone: 45 km

Database: FCC 04/11/30			941	.ccj 20	114	49 W11
Call Auth Licensee name	Chan	erp-kw	Latitude	Br-to	Dist.	Req.
City of License St F	CC File no. Freq	EAH-m	Longitude	-from	(km)	(km)
<b>老女孩子的女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女女</b>						
WRVG LIC Georgetown Co						
Georgetown KY	89.	9 10	84-33-24	139.9	58.06	CLEAR
WJSO LIC Moody Bible I						
Pikeville KY	90.	1 139	82-32-45	282.8	121.4	CLEAR
WWYC LIC Hancock Commu	unications 2610	2 32	38-07-25	321.7	56 70	56
	3LH-930301KF 100.					
1,1	, , , , , , , , , , , , , , , , , , ,	1 150	<b>Q4 2</b> 0 45			02000
ALLOC	2610	2	38-08-00	319.2	60.18	56
		1				
ALLOC	2620		36-11-53	185.6	170.2	96
Oak Ridge TN	100.	3	84-13-51	5.5	74.18	CLEAR
ALLOC		2				
Louisville KY D		5	85-30-42	109.4	20.12	CLEAR
Filing window 12/16-01/26/	/88 **CLOSED**					
					122 0	
WTFX LIC Prism Radio F		2 37				
Louisville KY E	3LH-940502KF 100.	5 169	85-31-17	111.4	22.86	CLEAR
ALLOC	2638		38-23-35	63 1	155 6	145
Huntington WV	100.		82-28-24			
nunczageon wv	100.	,	04-20-24	242.1	11.30	02000
WKEE LIC Adventure Con	nmunications 2638	53	38-23-35	61.1	156.6	145
	BLH-5460 100.					
•						
WWLW LIC James P. Gray	y 264)	. 6	38-17-42	13.0	65.06	142
Carlisle KY E	BLH-950127KZ 100.	7 100	83-52-32	193.1	-76.9	SHORT
ALLOC	264A		38-21-31			
	poc-89-351 100.	7	83-54-40	189.4	-70.6	SHORT
Filing window 10/30-11/29/	/90 **CLOSED**					
Assert D.		_			100 5	
NEW APC Patti D. Gove			36-19-36			
Bulls Gap TN 9	951 <b>207</b> MB 100.	/ 124	83-07-28	332.0	23.35	CLEAR
NEW APC Cherokee Broa	adcasting Sv 26As		36-15-52	153.2	181.1	142
	951207MF 100.					
						+
NEW APC Statewide Bro	oadcasting 264A	6	36-15-15	153.5	182.0	142
	-		83-08-11			
ALLOC			36-15-23			
-	DOC-94-117 100.	7	83-06-34	333.3	40.90	CLEAR
Filing window 11/06-12/07	/95 **CLOSED**					

# FM Spacing study

Proposed Channel for WCYO

Channel 264C3 (100.7 MHz)

Latitude: 37-43-27

Longitude: 84-02-38

Call Auth Licensee City of License				Latitude Longitude			Req.
WEEC LIC World Ev Springfield	angelistic Enter OH BLH-920806KC	264B 100.7	50 143	39-57-42 83-52-05			
ALLOC Springfield	ОН	264B 100.7		39-57-44 83-51-49			211 CLEAR
ALLOC Lebanon	KY DOC-93-141	265C3 100.9		37-26-02 85-08-43		_	99 CLOSE
	Springfield Broa KY BPH-940106IE	265C3 100.9	25DA 88	37-35-12 85-12-15			99 CLOSE
	Springfield Broa KY BLH-791120AD		3 87	37-35-12 85-12-15			89 CLOSE
WLSK-FM APC Lebanon- Lebanon	Springfield Broa KY BMPH-951017ID		15 90	37-35-12 85-12-15	_		99 CLOSE
ALLOC Hazard	KY	266C 101.1		37-11-38 83-10-52			96 CLOSE
WSGS LIC Mountain	Broadcasting Se KY BLH-871217KD	266C 101.1	100 446	37-11-38 83-10-52			96 CLOSE
WAGX LIC Jewell S Manchester	chaeffer Broadca OH BLH-921027KA		3 91	38-36-03 83-40-22			42 CLEAR

<sup>&</sup>gt;> End of channel 264C3 study <<